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SUBJECT: G/TIP LAGON VISIT TO SAO PAULO REVEALS BOTH PROGRESS AND PROBLEMS IN COMBATTING TIP

REF: A. 07 SAO PAULO 00958
[B.](#) 08 SAO PAULO 00276
[C.](#) 08 BRASILIA 00962
[D.](#) 08 RIO DE JANEIRO 00172

Summary

[11.](#) (SBU) Ambassador-at-Large Mark P. Lagon, Director of the State Department's Office to Monitor and Combat Trafficking in Persons (G/TIP), visited Sao Paulo on June 26-27 as part of a multi-city trip to Brazil. Ambassador Lagon met with both federal and state-level members of the judicial and law enforcement communities to discuss the challenges to combating trafficking in persons (TIP) in Brazil. He also conversed with members of the NGO community on issues involving forced labor and sexual exploitation. While most interlocutors agreed that the situation is improving in Brazil, they are still frustrated by the lack of implementation of existing laws and the way that Brazilians, in general, still do not see TIP as a major problem. Ambassador Lagon's message got a far more friendly reception from law enforcement reps in Sao Paulo than it received from some national level officials in Brasilia (Ref C). End Summary.

Legal Impediments to Combating TIP

[12.](#) (SBU) Discussions with federal and state law enforcement and judicial officials revealed a number of problems with the Brazilian legal system that make it difficult to combat trafficking in persons (TIP). Although representatives initially agreed that, on a macro level, they had sufficient legal support to fight TIP, deeper discussions soon revealed that there were serious gaps in the legal underpinnings for these efforts. Marcia Heloisa Mendoza Ruiz, Sao Paulo Police Chief at the Department of Homicide and Protection of the Individual, stated that she did not have sufficient legal support under the existing laws to pursue seriously the cases she had under investigation. Of the 21 cases of forced labor she was currently investigating, all the accused were free on bail and therefore free to potentially intimidate their accusers. She lamented that she had no way to keep the accused in custody under the existing legal structure. Ruiz also noted that undocumented migrants from Paraguay and Bolivia are terribly exploited in sweatshops in Sao Paulo, and routinely deported. Ruiz added that sex trafficking victims in Sao Paulo are both male and female, adults and minors. In Sao Paulo's brothels, both female and male victims can be found while on the streets, victims are typically women and transvestites, and are often subjected to physical abuse. Ruiz finds it extremely difficult to rely on victim cooperation or testimony to build her cases as victims usually choose to protect

their traffickers, and refuse police or NGO assistance. Most of her investigations are corroborated through wiretap evidence.

13. (SBU) Steven Shuniti Zwicker, Federal Prosecutor, concurred with Ruiz' views. He added that Brazilian law does not provide sufficient benefits or protections to TIP victims to encourage them to testify against their accusers. Women forced into both prostitution and drug trafficking have little protection from their former traffickers if they decide to testify against them. Zwicker concluded there is virtually no incentive for a victim to testify given that, unlike in the U.S., the victim cannot plea bargain her potential prostitution/drug trafficking conviction into a lesser sentence in exchange for her testimony. Thus, a victim who would report her trafficker to the police risks her life and receives no benefit in terms of her own charges and exposure to jail time. Zwicker also indicated that there are legal difficulties with assisting a TIP victim if he or she is in the country illegally. Currently Brazil lacks sufficient legal or statutory instruments for protecting undocumented foreign TIP victims from deportation. In addition, Brazil lacks a sufficient protection network on labor trafficking cases, and Bolivian labor victims, for example, often turn up in other sweatshops shortly after rescue. In response to a question from Ambassador Lagon, Zwicker noted that the GOB typically finds it difficult to work with statistics, or developing a database on criminal cases. Ruiz diagnosed the GOB's problem as failing to organize its anti-trafficking efforts properly. Ambassador Lagon suggested possibly arranging a visitor program to the US for Brazilian law enforcement officials or organizing digital video conferences (DVCs) among officials from Sao Paulo, Brasilia, and Washington, DC. Roundtable participants agreed such initiatives would be worthwhile.

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14. (SBU) Fabio Ramazzini Becharra, Assistant to the Sao Paulo State Attorney General, mentioned that most legal cases that could/should be treated as "classic trafficking in persons cases" were often prosecuted under other laws. Because it is so difficult to prove TIP and because most victims will not testify out of fear or lack of incentives, most TIP cases are prosecuted under anti-money laundering initiatives or tax-evasion statutes. Becharra cited the example of a famous Sao Paulo brothel known for catering to high society clientele. The owner was well known and had even made appearances on local TV talk shows advertising his "men's club" and bragging about his lucrative business which earned profits of R30 million per year (approximately 19.2 million USD at current exchange rates). When the brothel was finally closed, the owner was not prosecuted under any TIP or sexual exploitation laws, but was instead held for money laundering and tax evasion. Ruiz agreed with Becharra's assessment but added that, when she asks for financial records in an attempt to combat TIP under money laundering and tax-evasion laws, she is often stymied by judges who deny her access to this information.

15. (SBU) All of the law enforcement and judicial representatives agreed that there was a lack of information flow on trafficking cases among federal, state and municipal governments. During a meeting with Ricardo Filippi Pecoraro, Officer in Charge at the Federal Police office at Guarulhos International Airport, Pecoraro complained about the absence of interagency cooperation. He lamented that Brazil's law enforcement agencies do not have a tradition of working together. He noted the lack of inter-agency task forces and stated that while the federal police and the federal prosecutors worked together well in Sao Paulo, he did not believe this was the case in other cities. Pecoraro added that more than 100,000 travelers pass through Guarulhos daily, and he lacks sufficient personnel to identify victims. He has worked on one large "trafficking" case which involved counterfeit passports. (Comment: Pecoraro didn't appear to recognize the distinctions between alien smuggling and trafficking-in-persons offenses. End Comment.)

16. (SBU) In a separate meeting, Becharra expanded on Pecoraro's statements claiming that Brazil did not understand the issue of trafficking on a "national level," or from a cultural standpoint, particularly in terms of victim assistance. He added that he did

not see the GOB making TIP a priority, and therefore there was not enough legal or social service support to truly fight it and to help and treat victims. Furthermore, Becharra said the GOB lacked an understanding of how TIP may be directly connected to other crimes such as money laundering, drug trafficking, and other offenses. Subsequent meetings with Luiz Antonio Marrey, Sao Paulo State Secretary of Justice and Jose Gregori, former Federal Minister of Justice and President of the Municipal Commission for Human Rights, reinforced this conclusion. Marrey also pointed out that trafficking crimes tend to be overlooked by the government as "not so serious," when compared to widespread problems with gangs, guns, and violent crime. While Brazilian laws against human trafficking could be more stringent, he said, there was no point in enacting tougher laws if there was no overall commitment by the society to combat the problem. Marrey added that on a municipal level, he believed many local leaders in Sao Paulo State and in other regions are complicit with TIP and use forced labor in their own businesses.

According to Marrey, the sexual exploitation of minors in prostitution simply could not take place without the complicity of local police (sometimes even as customers). Police corruption is worse on the state level; federal forces have a higher degree of professionalism, Marrey concluded.

¶7. (SBU) Marrey also discussed the problem of sexual tourism in Brazil, and how tourists from Portugal, Spain, and Italy (among other countries) travel to northeast Brazil to engage in commercial sexual exploitation. Brazilian male prostitutes also are in high demand by such tourists. He stated that Brazil needs to educate the public about TIP and related crimes and enforce existing laws. On a more positive note, Gregori affirmed that while there were still significant TIP/human rights issues in Brazil, in his opinion, "the country is moving in the right direction" by signing the Palermo protocol and investigating existing cases. He also opined that Brazil's development of ethanol will be followed up with a concern for protecting human rights. Ambassador Lagon thanked Marrey and Gregori for meeting with him, and pledged to "raise up (did he mean

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"support," and if so, how? -- with funding, tech assistance, training?) what Sao Paulo is doing" to fight human trafficking.

Small Victories in Combating Forced Labor

¶8. (SBU) Meetings with NGOs reinforced Post's view that forced labor continues to be an issue within Brazil and that efforts to combat it vary significantly by region and sector. Leonardo Sakamoto, Coordinator of Reporter Brasil, stated that while forced labor continues principally in the cattle, charcoal, soy, and cotton sectors (Reftel A), in addition to timber, corn, sugar cane, fruit, and palm tree sectors, Reporter Brasil had noticed some improvements as well as continuing concerns. Sakamoto spoke of the "tripod" necessary for forced labor to take place: poverty, greed, and impunity. Brazil combats forced labor through three main mechanisms: labor prosecutions, the "Dirty List," and the National Pact to Eradicate Slave Labor. Criminal prosecutions and trials in Brazil, however, are very slow, taking an average of four to six years to complete. Convictions and jail-time sentences are difficult to obtain and uphold on appeal, especially of landowners. Nonetheless, the number of forced labor prosecutions and trials appears to be increasing in Brazil.

¶9. (SBU) The cattle industry is an example where increased production in more remote areas lends itself to possible TIP violations. However, many ranches with a direct link to consumers (JBS, Carrefour, Pao de Azucar) have made a noteworthy improvement in their practices. Government labor inspectors have rescued substantial numbers of workers from cattle ranches over the past year. Sakamoto related the story of a slave labor victim in Para who complained about poor working conditions. The landowner said to the victim: "Here the law is me" and then branded the victim. Sakamoto noted that a number of large companies (Bunge, Cargill, ADM) are consulting the "Dirty List" (Reft A) before purchasing from independently owned farms or calling Reporter Brasil directly to ensure that forced labor is not used in their supply chain (Texaco and Exxon).

¶10. (SBU) Sakamoto noted that the National Pact to Eradicate Slave Labor contains anti-slavery commitments from more than 100 companies in Brazil, whose financial worth represents 22 percent of Brazil's GDP. According to Sakamoto, "this pact is changing the way investors are doing business." When asked about trends in the pig iron, charcoal and sugar cane industries, Sakamoto stated that, at this time, it is very difficult to determine if conditions are improving, worsening or staying the same. While individual companies have made improvements, other companies are taking no action at all and the situation is expanding and worsening in some regions. Reporter Brasil is working to develop a new index by which to measure conditions in these sectors. Sakamoto also noted that a constitutional amendment to allow the expropriation of property in cases where slave labor is used is back on the House floor after failing passage in 2004 (Ref A).

¶11. (SBU) Paulo Illes, Coordinator of the Center for Support of the Migrant (CAMI), also noted during an NGO roundtable lunch the small victories in NGO and government efforts to combat the use of Bolivian forced labor in the textile industry (Refs A, B). After ascertaining that a number of the textile sweatshops in the City of Sao Paulo were operated by Korean nationals, CAMI alerted the Korean Embassy and met with the owners of twelve such shops. Korean interlocutors were initially skeptical, indicating that Bolivian victims were accustomed to such conditions based on "cultural traditions." However, a minimum standard for working conditions was eventually negotiated with the owners, and the City of Sao Paulo is now using these standards as the basis for new recommendations for work conditions in the industry. Despite the responsiveness of the local government on this issue, Illes lamented that most Bolivian workers still hesitate to come forward and complain of their miserable working conditions because they would face job loss, fines and potential deportation by the GOB.

¶12. (SBU) Illes indicated that Brazil should amend its immigration laws to protect undocumented trafficking victims from deportation, and said that developing a system where migrants can obtain legal status as registered workers would provide better protection against exploitation. Other NGO participants noted additional concerns about the GOB's anti-trafficking efforts, such as failure to implement the national anti-trafficking plan. Moreover, certain

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states and cities with high numbers of trafficking victims (for example, Rio de Janeiro, Sao Paulo, Minas Gerais, Para, and Pernambuco) are ahead of the federal government and are pushing the federal government forward on this issue. In Sao Paulo, 146 trafficking victims have been identified this year, and a significant number of criminal cases are pending. However, the greatest challenge to successful prosecution is "bringing the judicial branch over." Prosecution efforts have suffered from a lack of specific anti-trafficking laws, and judges use legal loopholes to avoid imposing significant prison terms on traffickers. In addition, cultural issues such as victims not recognizing themselves as victims and regarding traffickers as "heroes" impede progress. Maria do Socorro N. da Silva, Service for Marginalized Women, indicated that the tourism industry had signed a code of conduct against child sex tourism in 2006, but minors are still sexually exploited in a number of hotels. She stated that a certification system without an inspection mechanism doesn't work, and that greater measures need to be taken against child sex tourism.

Differing Goals Stymies Information Flow between the Police and NGOs

¶13. (SBU) During our meeting with Marcia Ruiz, Ruiz expressed her disappointment with the lack of information flow from local TIP NGO, ASBRAD (Brazilian Association for the Defense of Women and Youth). She stated that the number of TIP victims who return to Brazil is probably significantly higher than statistics show and that ASBRAD, an NGO that assists suspected TIP victims as they enter Guarulhos Airport, should be providing the police with more information. In our subsequent meeting with Dalila Figueiredo, President of ASBRAD, she disagreed with Ruiz. ASBRAD's job, she said, was to win the victim's trust. An ASBRAD connection to the police could undermine

that bond. She affirmed that ASBRAD would always support trafficking victims if they choose to report to the police, but that ASBRAD will not report on the victim's behalf. On a more positive note, she stated that her hesitation to go to the police was not for fear of police corruption and stated that in Sao Paulo, at least, she thought the police force was trustworthy in TIP cases.

Comment: Real Progress, But Challenges Remain

¶14. (SBU) Despite the commentary and the clear frustration of some of the interlocutors with the Brazilian legal system and the impediments to combating TIP, nearly all participants noted progress being made by Brazil. They indicated that the 2004 signing of the Palermo Protocol elevated the issue of TIP on the national agenda, and that slowly public officials and the populace at large are learning about the problems TIP can cause. While greater enforcement of existing anti-TIP laws and increased public awareness are essential, most interviewees indicated that anti-TIP measures had improved during their tenure working in the field.

Comment: Brasilia vs. Sao Paulo

¶15. (SBU) Ambassador Lagon's visit was generally well-received by Brazilian state and local officials and NGO representatives. Nonetheless, there was a clear difference between the reception in Sao Paulo and that in Brasilia (Ref C). In Sao Paulo, Brazilian law enforcement officials were open to continued dialogue with the U.S. In contrast, in Brasilia some GOB officials told Ambassador Lagon they were insulted by U.S. anti-TIP activities in Brazil and that DHS's request for assistance in following up on allegations of the use of forced labor in the charcoal/pig iron production chain was "an imposition on Brazil's sovereignty."

¶16. (SBU) Overall, TIP offers the USG an excellent opportunity for improved bilateral cooperation on human trafficking issues. Post is exploring ways to get the Brazilian Sao Paulo/law enforcement perspective on TIP better understood by some officials in the capital. End Comment.

STORY